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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H 2007 547

MARK GREGORY TAVLIAN  
25 Acapulco Court  
Novato, CA 94949

**A C C U S A T I O N**

Respiratory Care Practitioner License No. 4332  
Respondent.

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 14, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License Number 4332 to MARK GREGORY TAVLIAN (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2009, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1                   4.       Section 3710 of the Code states: “The Respiratory Care Board of  
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
3 8.3, the Respiratory Care Practice Act].”

4                   5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
5 and revoke licenses to practice respiratory care as provided in this chapter.”

6                   6.       Section 3750 of the Code states:

7                   “The board may order the denial, suspension or revocation of, or the imposition of  
8 probationary conditions upon, a license issued under this chapter, for any of the following  
9 causes:

10                  “(d) Conviction of a crime that substantially relates to the qualifications,  
11 functions, or duties of a respiratory care practitioner. The record of conviction or a  
12 certified copy thereof shall be conclusive evidence of the conviction.”

13                  “(g) Conviction of a violation of any of the provisions of this chapter or of any  
14 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
15 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to  
16 violate any provision or term of this chapter or of any provision of Division 2  
17 (commencing with Section 500).”

18                  7.       Section 3752 of the Code states:

19                  “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
20 made to a charge of any offense which substantially relates to the qualifications,  
21 functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
22 the meaning of this article. The board shall order the license suspended or revoked, or  
23 may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
24 conviction has been affirmed on appeal or when an order granting probation is made  
25 suspending the imposition of sentence, irrespective of a subsequent order under Section  
26 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
27 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
28 accusation, information, or indictment.”



1 3750(g), 3752 [conviction of a substantially-related crime] and CCR 1399.370(a) and (c)  
2 [conviction of a crime involving driving under the influence] in that he was convicted of driving  
3 under the influence of alcohol in 2007. The circumstances are as follows:

4 13. On or about September 14, 2007, at about 10:45 p.m., Novato Police  
5 Officer MacKenzie observed a vehicle speeding between 75 and 80 miles per hour. He activated  
6 his patrol vehicle emergency lights and drove behind the vehicle in an attempt to stop the driver.  
7 The driver later identified as respondent by his California driver's license pulled over to the curb  
8 and stopped.

9 14. Officer Mackenzie observed that Respondent had a moderate odor of  
10 alcohol, his eyes were bloodshot and glassy, his speech was slurred, and his balance was  
11 unsteady. Officer Mackenzie administered field sobriety tests (FSTs) to Respondent, and  
12 Respondent was unable to follow simple instructions. Based on the officer's observation of  
13 Respondent's driving, Respondent's objective symptoms, and his poor performance on FSTs,  
14 Officer Mackenzie arrested Respondent for violating Vehicle Code section 23152(a) [driving  
15 under the influence of alcohol.]

16 15. Respondent submitted to a preliminary alcohol screening test, and the  
17 results indicated an alcohol content of .26%/.21%/.21%.

18 16. On or about September 24, 2007, a criminal complaint titled *People of the*  
19 *State of California vs. Mark Gregory Tavlian*, case no. CR155708 was filed in Superior Court for  
20 Marin County. Count 1 charged respondent with a misdemeanor violation of Vehicle Code  
21 section 23152(a) [driving under the influence of alcohol.] Count 2 charged respondent with a  
22 misdemeanor violation of Vehicle Code section 23152(b) [driving while having a .08% or higher  
23 blood alcohol.] It was further alleged that Respondent had a blood alcohol level of .25% within  
24 the meaning of Vehicle Code section 23538(b)(2).

25 17. On or about November 1, 2007, respondent entered a plea of guilty to  
26 count 2. On or about November 1, 2007, respondent was convicted on his plea of guilty to Count  
27 2, a misdemeanor violation of Vehicle Code section 23152(b) [driving while having a .08% or  
28 higher blood alcohol.] Count 1 and the enhancement were dismissed on motion of the District

1 Attorney. Respondent was granted a conditional sentence for three years. He was given credit  
2 for two days in jail at the rate of \$100.00 per day for a total of \$200.00. He was ordered to pay  
3 fines totaling \$1,344.00, pay restitution, enroll and complete a nine month alcohol and drug  
4 education program within 365 days, and other conditions.

5 18. Therefore, respondent's license is subject to discipline based on his  
6 conviction, which is substantially related to the practice of respiratory care, and a violation of  
7 code section 3750(d), 3750(g), 3752 [conviction of a substantially-related crime] and CCR  
8 1399.370(a) and (c) [conviction of a crime involving driving under the influence.]

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
11 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

12 1. Revoking or suspending Respiratory Care Practitioner License Number  
13 4332, issued to MARK GREGORY TAVLIAN.

14 2. Ordering MARK GREGORY TAVLIAN to pay the Respiratory Care  
15 Board the costs of the investigation and enforcement of this case, and if placed on probation, the  
16 costs of probation monitoring;

17 3. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: April 15, 2009

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21  
22 Original signed by Colleen Whitestine for:  
23 STEPHANIE NUNEZ  
24 Executive Officer  
25 Respiratory Care Board of California  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

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